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MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 11th June 1952

S. R. O. 1082.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (IV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the dispute between certain employers of mica mines in Madras State and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

REFERENCE No. 5 of 1951

Present

Shri S. P. Varma, B.A., Barrister-at-Law—*Chairman.*

PARTIES:

The workmen employed in the Mica Mines situated in the State of Madras

Versus

Their employers.

AWARD

By notification No. LR-4(124), dated 6th February 1951 and subsequently amended by notification No. LR-4(124), dated 29th June 1951 the Government of India, the Ministry of Labour has referred to this Tribunal the industrial dispute that has arisen between the workmen employed in the mica mines situated in the State of Madras and their employers. The reference covers a large field and as much as 22 issues were referred to this Tribunal which will be dealt with in the order in which they are classified by this Tribunal into groups.

2. Usual notices were issued on 17th February 1951 and on 8th January 1952. At the request of the parties from time to time some adjournments were granted, and finally the case was fixed for hearing at Madras on 14th April 1952. The hearing concluded on 21st April 1952.

3. The workmen were represented by Shri P. C. Reddy, President, Andhra Pradesh Mica Mazdoor Panchayat, Gudur, on behalf of the various Unions mentioned in the Government notification referring this dispute. He was assisted by his other colleagues namely, Shri A. V. Subbiah, and Shri C. C. Subbiah.

4. The employers were represented by their counsel Messrs. Muni Kanniah, B.A., Advocate, and G. V. Subramanian, Advocate, with Shri B. Ramachandra Reddy, President, Madras Mica Association. The appearance of legal practitioners were allowed as the Union had no objection to their appearance. No witnesses were examined but a number of exhibits filed which will be referred to as occasion arises.

5. I shall now take up the items given in the schedule to the Government notification referring this dispute with proper groupings.

6. Before dealing with the main reference it would be proper to dispose off the preliminary objection raised on behalf of the Madras Mica Association by Shri Muni Kanniah alleging that the reference is incompetent. He says that as the amendment of the notification came in March 1952 and the original notification was on 29th June 1951, the reference is incompetent. There were 114 names in the schedule. Out of this 106 are from Nellore, one from West Godavari, 1 from Madura District, three from Krishna District and three from Nilgiri District of Madras State. He further says that as the amendment to the Industrial Disputes Act 1947, came after the notification, this amendment cannot be taken advantage of. The two other points he refers to are whether the dispute has arisen as regards each of the mines and if there is no dispute then there should be no adjudication. In the case of workers who have not been at dispute we have to see who has filed the written statement and under what authority. Notices were served on the names in the list but some of them have not appeared e.g. No. 107 to 114, of the notification, and from some of the mines there was no complaint against the managements from the workmen of those mines. On the other hand they have actually filed statements showing that there was no dispute. Then there are some mines which are actually closed.

7. On 3rd January 1950, the Madras Mica Association was invited to offer its views on the rate of wages to be fixed under the Minimum Wages Act before 7th January 1950. The Madras Mica Association met on 19th January 1950 and considered the rates and on the same day the Collector of Nellore sent a notice for a meeting on 28th January 1950 to discuss the conditions of mica workers in mica mines with particular reference to wages. On 20th January 1950 the decision of the Association was communicated and similar notice was sent to the Nellore Mining Labour Union. On 28th January 1950, an agreement was arrived at and it is said to be signed by the signatories thereon. On 9th February 1950, the Collector wrote to the Madras Mica Association and the mica mine owners that a settlement has been reached and it should be given effect to from 1st January 1950. It stated that it was under Section 12(3) of the Industrial Disputes Act 1947. The Association objected that there was no dispute and no conciliation proceedings was initiated and the President of the Association did not sign it. Under the Minimum Wages Act, wages have been fixed on 13th March 1952 and it has come into operation from 25th March 1952. It compares favourably with 28th January 1950, agreement. It was published in the Gazette Fort St. George on 18th March 1952, at page 369. Complaint to the Labour Ministry (Central) was made on 27th February 1950. On 18th March 1950 there was a conference by the Collector and he passed an order on 12th October. On 24th January 1951 the Government made a draft notification under Section 5(1) (b) of the Minimum Wages Act proposing minimum wages. It ended in the notification fixing the wages on 13th March 1952 and came into force on 25th March 1952. In the meanwhile the reference had been made on 6th February 1951 and on 29th June 1951. One of the contentions is that before or after 3rd January 1950 the owners are not aware of any complaint from the workers and the managements urge that it is not a competent reference under Section 10(1) (c) of the Industrial Disputes Act 1947 especially when the conciliation proceedings were not continued as contemplated by Section 12 (3) of the Industrial Disputes Act 1947.

8. I am afraid these preliminary objections have been raised under a misapprehension. I had the advantage of going through the file of the Regional Labour Commissioner (Central), Madras, and I find that originally there was some sort of dispute with regard to rates and then came the meeting, dated 28th January 1950. But immediately after, the mine owners objected to it and they refused to implement that agreement and denied that it was an agreement. Then there was certain letters that passed between the Regional Labour Commissioner (C), Madras, and the Chief Labour Commissioner, New Delhi. On 18th October 1950 a letter was sent by the Regional Labour Commissioner (C) (Madras) to the Chief Labour Commissioner suggesting him to prosecute certain mine owners and also suggesting that the dispute should be referred to an Industrial Tribunal, for adjudication as demanded by the Nellore District Mining Labour Union. The dispute leading to the meeting of 28th January 1950 did not end as the owners continued to question its validity. Then came the first notification after various communications, which is dated 6th February 1951 and the amendment notification which was issued on 29th June 1951. At the time it was first issued the name of all the mines were not mentioned.

9. The Industrial Disputes (Amendment) Ordinance 1951, No. IX of 1951, is dated 5th December 1951 and it says that it shall come into force at once. In sub-section (5) of section 2 of the Ordinance it is said:

"(5). Where a dispute concerning any establishment or establishments has been, or is to be, referred to a Tribunal under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, *the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, by order in writing include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments.*"

10. At the time when the first notification was issued this Ordinance was not there as it was issued on 5th December 1951. Then came the amendment act dated 4th March 1952 which incorporated sub-section (5), of the Ordinance. On the other points also in view of Sub-Section (5) of Section 10 of the Industrial Disputes Act 1947, as incorporated in the amendment Act, the objection fails. If some parties mentioned in the list published in the Gazette of India are not there, the reference itself does not become bad. The whole idea is to have the reference industry wise, and not merely inclusion of certain individual owners or Unions or body of workers. I see no force in this contention of Shri Muni Kanniah appearing for the managements, nor can it be said there can be no dispute in the mica industry of Madras simply because some owners did not care to appear before this Tribunal.

11. Out of the 22 items mentioned in the schedule, 17 are the reproduction of the items in the Bihar Mica Award which is Reference No. 2 of 1948 of this Tribunal. Others are different perhaps on account of the difference in conditions obtaining in Bihar and Madras states. It is best to group these items under different headings because some of them seem to overlap one another. The classification of the items may be done in the following way.

I. General: Items 1, 11, and 9, and 18.

II. Wages: Items 2, 4, 5, 6 and 19.

III. Bonus, Provident Fund etc. Items 3, 10, 14, 20 and 21.

IV. Holidays: Items 7, 8 and 22.

V. Medical Facilities: Items 12, 15, 16 and 17.

VI. Rations: Item No. 13.

Annexure "B" is a copy of the schedule to the Government notification.

I. GENERAL

ITEM No. 1

What is the state of the Mica Industry with special reference to the employers, ability to bear the demands of the workman without stifling the industry.

12. This is not really a demand but a consideration of the question whether the mine owners can afford to pay the increased amount of wages that are given and any special concession in view of the financial conditions under which they are working. Shri P. C. Reddy appearing on behalf of the workers stated that the mica industry reached its high water-mark in 1951 and the prices of mica went on rising from the year 1939. We went even so far to say that in some cases the rise was upto 800 per cent from 1939. Of course at present the boom is not continuing but it is only a temporary phase because some of the countries who used to import mica from India are not doing so now. He pointed out however that the value of export of mica from Madras area alone came up to 2.6 crores. Shri P. C. Reddy also complained that the rise in the rates of wages did not go with the increase in the price of mica goods. On the other hand, the cost of living has gone up considerably. As against this Shri Subramanian urged that this was not the subject matter of the dispute. But I am afraid this matter has to be gone into in order to find out the capacity of the mica industry to pay any increased amount that may be granted by this Tribunal. Shri Subramanian also pertinently pointed out that while dealing with the case of mica mine owners it should be kept in view that their activity is quite different from that of mica exporters. This suggestion I do not hesitate to accept. Shri B. Ramachandra Reddi, on the other hand, admitted that although it is an exaggeration to say that the prices of mica went upto 800 per cent, the fact is that prices rose

from 100 to 200 per cent. and in some cases it rose to 500 per cent. He also pointed out that out of 114 mines mentioned in the notification only about a dozen mines are working efficiently. Shri P. C. Reddy on the other hand, pointed out that although there is a difference in the activities and income of the mica mine owners and the exporters but it is not very difficult to realise that if the exporters make profit the mica mine owners also will raise their prices. So even on the statement of Shri Ramachandra Reddi there is no difficulty in my coming to the conclusion that the condition of the mica mine owners is not so bad as it is tried to be made and also think that they can bear the extra expenses if rates of wages and concessions are reasonably increased. In this connection the observations on this point made by the Adjudicator in the Bihar Award (Ref. 2 of 48) of this Tribunal may be looked into. This has been discussed from para. 7 to para. 14.

ITEM No. 11

What should be the fair rules of disciplinary action applicable to the workmen in the mica mines?

13. In their statement dated 1st March 1951 the workmen demand that no workman should be punished without giving any written charge-sheet and without opportunity given to him for explanation. It is further added that all cases of disciplinary action should be decided by a Board consisting of the employer and representative employees' Union sitting along with an officer of the Government to be nominated.

The management on the other hand, point out that fair rules of discipline should be formulated in a joint conference of workmen, employers and the Welfare Committee. They also suggest that in the case of all small matters involving not more than a day's wages the order of the manager or the mine owner should be final. In cases involving suspension for a month or more or removal from service appeal should be to the President of the Welfare Committee. This matter came up for consideration before the Adjudicator of the Bihar Award (Ref. 2 of 48 of this Tribunal) and there the standing orders Appendix 'A' to the Government Resolution L.R.2(103), dated 12th May 1947 referred to in paragraph 24 thereof was held to be a fair guide in respect of discipline and I direct that the same should be applied to the mica mines also. I respectfully agree with the observations made by the Adjudicator and I make that appendix as annexure 'A' to this award.

ITEM No. 9

Should the workmen be allowed compensation for forced idleness and if so to what extent?

14. In the Bihar Award (Ref. 2 of 48 of this Tribunal) this point was pressed by the workmen vide para. 34 of that award. I think that payment for forced idleness is necessary. The demand made by the workers is that they should be allowed compensation for forced idleness arising out of the fault of the employer and it shall be basic rate plus dearness allowance for a fortnight. I think the demand is a reasonable one and it should be granted. The employer urges that it should be allowed only to permanent employees and permanency should be taken into consideration by prescribing 3 years service as permanent service. I do not think that I should accede to this request of the employers. I think the condition should not be attached to the order that I pass. I would grant to workmen forced idleness 50 per cent. (half) of their daily consolidated wages upto 15 days as forced idleness compensation.

ITEM No. 18

Dry compressors should not be used by the employers.

15. So far as this item is concerned the demand of the workers is that drilling should not be resorted to and if it is done protective measures should be taken. On this the statement on behalf of the mine owners is a very reasonable one and they are prepared to avoid dry drilling completely unless it becomes unavoidable. They also state that wherever dry drilling is employed protective equipment will be supplied to them. This being the position I give my award accordingly. The dry drilling should be avoided and if it is absolutely necessary protective equipment should be furnished to the workmen.

II. WAGES

ITEM No. 2

Is the present scale of wages in the mica mining industry inadequate, and if so, what should be the reasonable wages?

16. This item along with items 4, 5, 6, and 19 form the most important group of items in the reference. At the time of hearing, Shri P. C. Reddy pointed

that the present scale of wages are grossly inadequate, and said that wages should be fixed after taking into consideration all the factors necessary for arriving at figures. For example essential requisites of life, the nature of work the labourer is asked to do, risk involved in the industry to the workers, the rates prevailing in other industries like coal industry, motor transport industry etc. Finally the state of the industry whether prosperous or otherwise should also be considered. He has filed Ex.K-2 which gives the schedule of rates of 1942-43 for various types of mica and their prices. He also gives the comparative rates to show the rise in prices of mica in Ex.L-2 and also rates at which various workmen are being paid in various mines. About half a dozen mines are to be found in Ex.N-2. Ex.H-2 is a statement of wage rates demanded by the employees and filed on behalf of all the Unions. There are about 14 items out of which items 3, 4, 5, and 6 are really with regard to workers in factories. This was filed on 17th April, 1952 but then on 19th April, 1952 Ex.N-2 was filed which gives the revised wage and salary list they are demanding. Henceforward I will refer chiefly to these exhibits N-2 and O-2 which were filed together. O-2 gives payment to various types of workers in the various mines which are half a dozen in number.

As against this Shri B. Ramachandra Reddi points out that the agreement of 28th January, 1950 (Ex.3-1) was a sample of fair wages and these wages included allowances also. He also points out that food is being supplied at controlled rates by the relief shops mainly rice. Millet is available and it is not controlled. Some mines are supplying at the mines themselves under licence. Most of the employers supply cloth purchased and sold at controlled rates. Shri Muni Kaniah for the employers also pointed out that the question is whether the wages are adequate, and whether it is necessary to raise it. So far as the Jumper Mazdoors are concerned the Union's revised demand is Rs. 2/8. But Shri B. Ramachandra Reddi referred to Adarkar's report of 1944, at page 43, where it is mentioned As. 0-13-7 as the average and this rate cannot be paid by several mines. Ex.52 is a statement showing the rates that prevailed at various times, and also the demand made by the Union. He suggests that the average basic wage before the war should be taken into consideration and calculation should be made on the average at that time. But there is one thing more that has to be noted that whereas in one of their statements dated 26th January, 1952 the workmen made certain demands with regard to certain categories of workers, the rates demanded were higher but in a subsequent statement dated 1st March, 1951 they mentioned the rates which are lower but the rates mentioned in this document are without any allowances. From the history of the case it will appear that the rates were fixed under the Minimum Wages Act which is to be found in Ex.1-1 and these rates that were fixed were inclusive of all allowances.

I think that after the fixation of these rates by the proper authorities under the Minimum Wages Act it is not necessary to go into the rates that prevailed several years before. It should also to be remembered that the rates fixed by the authorities are minimum wages and not adequate wages. I think that on the material before this Tribunal the rates should be revised and I would raise the rate as mentioned below:

Category.	Workmen's demand (as per Ex. N-2)	Consolidated wages fixed by the Minimum Wages Act. (Ex-1-1).	Tribunal's Award, (Basic rate)
	Rs.	Rs.	Rs.
1. Jumper Mazdoor	2-8-0	2-0-0	1-2-0
2. Mine or Blast- ing maistris.	3-0-0	2-0-0	1-2-0
3. Mica Majstris	2-8-0	1-6-0	0-12-0
4. (i) Muck and mica mazdoors.	1-12-0	1-6-0	0-12-0
(ii) Removal maz- doors.	Not mentioned	1-2-0	0-10-0

Category.	Workmen's demand (as per Ex. N-2)	Consolidated wages fixed by the Mini- mum Wages Act. (Ex. 1-1).	Tribunal's Award (Basic rate)
	Rs.	Rs.	Rs.
5. Cutters—			
I grade.	2—0—0	1—8—0	0—13—6
II „	1—8—0	1—4—0	0—11—0
III „	Not mentioned.	1—0—0	0—8—8
6. Dressers & Sorters.—			
Grade I	2—0—0	1—8—0	0—13—6
Grade II	1—8—0	1—4—0	0—11—0
Grade III	Not mentioned	1—0—0	0—8—6
7. Mica mazdoors including hard and waste round cutters.	1—8—0	1—0—0	0—8—6
8. Blacksmith	3—0—0	2—0—0	1—2—0
9. Fitters	2—8—0	2—0—0	1—2—0
10. Engine or com- pressor drivers. (certificate hol- ders.)	3—4—0	3—0—0	1—14—0
Engine or compres- sor driver (non-certi- ficate holder)	2—12—0	2—0—0	1—2—0
<i>Monthly paid staff.</i>			
1. Watchman	1—8—0	33 P. M.	(P.M.) 18—0—0
2. Office boys	1—8—0	36 „	20—0—0
3. Clerks	2—12—0 (daily)	58 „	30—0—0
4. Typist.	3—4—0 „	60 „	42—0—0

In fixing the above rates I have also to mention the question of dearness allowance. The wages that were fixed under the Minimum Wages Act were inclusive of all allowances. There was a certain amount of insistence on the part of the workmen that it should be separated from the basic wage. I am of opinion that the dearness allowance should not be more than 100 per cent. In Bihar dearness allowance allowed was 150 per cent. on the basis of Conciliation Board's Award. There are other awards of subsequent dates e.g. the C.P. Fact Finding Committee Report [L.R.2(III), dated 10th October 1947, paras 4 and 29], has fixed 100 per cent. as dearness allowance. Over and above the basic pay mentioned in the preceding paragraph I will fix the maximum dearness allowance at 100 per cent. sliding down to 40 per cent. as given in the table below.

Basic wage per month	Rate of Dearness allowance
For workers drawing a basic wage upto Rs. 30 p.m.	100 per cent.
For workers drawing a basic wage upto Rs. 31 to 100	66-2/3 per cent.
For workers drawing a basic wage upto Rs. 101 to 300	40 per cent.

The principle of 26 working days in a month should be followed for the purpose of calculating the rates of D/A of the daily rated workers. Item Nos. 4, 5 and 6 are disposed of accordingly. (Item 4 Basic wage for calculating D/A, Item 5 is rate of D/A and Item 6 is rate of wages).

ITEM No. 19

Wages should be paid once a week and under no circumstances the payment to be delayed for more than 4 weeks

17. On this point the parties agreed that settlement of account should be done at the end of the month and not at the end of the year. In the case of the weekly paid workers the payment should be made on Saturday but if not on that day on Monday at the latest. I award accordingly.

III. BONUS, PROVIDENT FUND ETC.

ITEM No. 3

What bonus, if any, should be allowed to the workmen?

18. The Nellore District Mining Labour Union demanded bonus at the rate of three months for every year of 12 months and the same to be calculated on the average gross income of the employees and the amount drawn during the time of promotion has to be considered in working the average emoluments, and an employee should be entitled to full bonus if he works 75 per cent. of the working days which should be 60 per cent. of the total number of days in the year. This question of bonus does not find a place in the statement filed by the workmen dated 26th January 1952. But then in the statement filed by the Andhra Rashtriya Mica Mazdoor Panchayat, Gudur, dated 26th February 1951 under the heading bonus they say that only a few mine owners pay bonus. Even in the payment of bonus differentiation is made between the various categories of workmen. The managerial staff gets three months bonus, the clerical staff and the supervisory staff get one or two months bonus and the manual and skilled labourers get 2 to 4 weeks wages. They also give the name of the various mines where bonus is given. They also refer to the method adopted by some of the mine owners to evade payment by treating some of the workers as temporary although they are permanent.

The management on the other hand, in their statement dated the 19th September 1951 point out that the bulk of labourers in the mines are casual and most of them do not stay there long enough to earn their bonus and those who are permanent get bonus equal to 4 months wages. They further submit that bonus should not be expected to be paid by all classes of mica mines e.g. mica mines which are running at a loss who cannot afford to pay. Varying rates of bonus should be fixed for permanent clerks, supervisory staff, skilled labourers etc. As the bulk of the labourers are casual it is not possible to give bonus. At the time of hearing the representatives of the workers pointed out that some of the mines are paying bonus ranging from 15 days to 3 months and some are not paying bonus even if they can afford to pay. The exporters of mica are all paying bonus from 2 to 3 months. A good many mine owners who pay bonus are also exporters. The mine owners have agreed to pay 30 days bonus. The union demand that the payment should be for 2 months for daily paid workers and three months for monthly paid workers. Shri B. Ramachandra Reddi points out that bonus is paid to the permanent staff at the end of the year at the rate of $\frac{1}{3}$ of the amount earned by them but the capacity to pay is to be taken into consideration. Shri Subramanian appearing for some of the mine owners urged that bonus should not be paid to the daily wage-earners or to the casual wage earners. He referred to para 3 of the statement filed by the Mica Mine Owners Association dated 20th March 1951. I should mention that Shri P. C. Reddy was willing to concede that mine owners who are incurring loss should not be expected to pay any bonus.

The question of bonus can be divided into two parts. One is attendance bonus and the other is annual bonus. The question of bonus is important. This matter came up for consideration before this Tribunal earlier in Reference No. 2 of 1948 and in that award under the heading 'annual bonus' (Issue No. 3) the dispute was whether the workers should get one month's bonus or three months' bonus. It was held that claim of the workers for two month's bonus in the year was reasonable and it was directed that $\frac{1}{2}$ month's bonus should be paid every quarter provided the workman has worked 45 days underground and 57 days on the surface. If I may say so, with respect, I agree that the order passed therein. But I also add that those who are enjoying higher rate of bonus their privileges should not be disturbed. However, if any scheme for bonus is promulgated by the Government of India this order will be substituted by that order. Of course those mine owners who are running their mines at a loss cannot be expected to pay bonus

I am not prepared on the materials before me to give an award for attendance bonus (*vide* observation under item 10 also).

ITEM No. 10

What inducement should be given to the workmen for the purpose of ensuring their permanency of service?

19. This item was dealt with in the Bihar Award (Ref. 2 of 48 of this Tribunal) in para. 29. At the time of hearing it was urged that attendance bonus should be paid. Shri Subramanian appearing for some of the mine owners referred to para 15 of the statement of mine owners association and also referred that this particular item of attendance bonus was not mentioned in any of the statements of the workers. So I am not prepared to go so far as to allow attendance bonus. So far as the other ingredients are concerned which make up this item No. 10 they come under the heading of additional salary and annual bonus and free rice. I am afraid this item No. 10 overlaps with some of the items mentioned in the schedule to the Government notification. So I do not give any specific award on this item.

ITEM No. 14.

Should a Provident Fund under the Government of India's scheme be applied to the workmen?

20. I think this is a matter for the Government to go into just as we have coalmines Provident Fund scheme. In the mica mines also similar scheme is likely to be introduced. In the previous award in Reference No. 2 of 48 (Bihar award) a recommendation was made that when the Provident Fund becomes available instead of cash payment there should be given an annuity on the lives of the workman and his wife. I need not repeat this in this award. When a provident fund scheme comes into force (which should be done as soon as possible by the Government of India), the government is bound to take these matters into consideration. Therefore no recommendation is necessary by me. In this connection I may refer to the Mica Welfare Fund Advisory Committee report which is reproduced at page 766 of the Indian Labour Gazette, March 1952 and also to Ministry of Labour notification No. S.R.O. 728 dated 28th September 1950, Part II, at page 2.

ITEM No. 20

Payment of pension for those workers who have put in a service of not less than 15 years at one and the same mine.

21. This item has not been pressed by the workmen. Therefore no award is called for on this point.

ITEM No. 21

25 per cent. of the net profits to be evenly distributed among the workers every year

22. The case of the workers is that it is highly desirable to introduce profit sharing bonus in the case of all permanent employees as per their statement dated 26th February 1951. In their statement dated 26th January 1952 this item is not mentioned. In their statement dated 1st March 1951 they suggest that 50 per cent. nett profits should be evenly distributed among the workers. I think this is a matter which should be left to the Government and I understand that the Government is going to look into the matter and therefore no specific award is called for under this item.

IV. HOLIDAYS:

ITEM No 7

What holidays should be allowed to the workmen with pay?

23. The Nellore District Mining Labour Union in para 7 of its statement demand that the following holidays should be allowed to the employees with full wages:—

- (a) All Sundays (b) Mohammadan, Christian and Hindu religious festival days (c) local festival days (d) Dasserahr (e) National holidays and (f) two days as out door holidays for women every month.

The statement filed on behalf of the mica workmen of mica mines in the Madras State dated 26th January 1952 the demand is that all Government holidays shall be holidays for the employees wages paid to them for those holidays. There is no mention of this item in the statement filed by the workers of Pallimetta Mica Workers Union, Sydapuram. There is another statement by the Andhra Rashtriya Mica Mazdoor Panchayat, Gudur, which demand all Sundays should be declared

as holidays and wages paid Holidays for local and national festivals, government holidays not exceeding two weeks in the year. Wages should be paid for all these holidays. At the time of hearing Shri P. C. Reddy appearing for the workmen wanted holidays to be in accordance with the Negotiable Instrument Act. Shri Subramanian appearing for some of the owners observed that the bulk of labour is casual and there are no paid holidays in the industry. Some mines observe 15th August and 26th January as paid holidays. Shri B. Ramachandra Reddi pointed out that in some mines 26th January is a paid holiday, e.g. Mogalia, and Navakoti, Navakoti Mine at Sydapuram. Shri Subramanian then referred to the agreement dated 28th January 1950 (Ex. 3-1) where under the heading "leave with pay" is meant that after completion of 12 months service workers should be entitled to 15 days leave with full wages, including 4 festival holidays namely, Pongal, Ayuda Puja, Kalichedu, and Telugu New Year day, which should be granted even during the first year of service. But Shri B. Ramachandra Reddi observed that this statement did not represent the demands made by the workers. Shri Subramanian appearing for some of the mine owners however pointed out that so far as the festival holidays are concerned the employers are agreeable to the following days being treated as holidays with pay:

Tamil New Year's Day	(one day).
Dipavali ...	(one day).
Dasserah ...	(one day).
Pongal ...	(two days).

I have no hesitation in allowing the above holidays with pay but I cannot leave out of account the 15th August and 26th January. These also should be paid holidays, irrespective of the amount of service that the workers have put in. It is not possible to grant all the holidays under the Negotiable Instrument Act holidays and all local holidays as demanded by the workmen. With regard to Sundays I would allow the present practice to continue. The women workers should be allowed two days out door holidays for two days in a month besides the above mentioned holidays.

ITEM No. 8

Are the present hours of work suitable for the workers? If not, how should they be altered?

24. The demand of the workers is that they should not be made to work for more than 7 hours underground drilling in a day and 8 hours on the surface and main factory. They also pray that overtime work should be paid for every hour of overtime work done, two hours wages including dearness allowance. For work on holidays or Sundays it should be at the rate of two days wages including dearness allowance. So far as the compensation for forced idleness is concerned they say they should be paid the basic rate including dearness allowance at least a fortnight. In the statement filed by the employees (Andhra Rashtriya Mica Mazdoor Panchayat) dated 26th February 1951 they say the hours of work should be 8 hours and for overtime the employees should be paid extra wages on a higher rate normally 50 per cent. more than the ordinary rate. The representatives of the owners however point out that the hours of work are arranged in conformity with law and are quite suitable to work. I do not see any reason to interfere with the present arrangement of the working hours.

So far as the compensation for overtime is concerned the workmen's demand is double the earnings for overtime or work on holidays. But from the statement of the employers it appears that they are being paid 50 per cent. extra. I think this amount of 50 per cent. paid by the employers is quite adequate.

ITEM No. 22

Leave with Pay

25. The workmen demand that they should be given 15 days sick leave and 15 days casual leave and women employees should get two days in a month besides the above holidays. At the time of hearing a reference was made to the settlement, from which a passage has been quoted while dealing with item No. 7 of this award. Shri Subramanian appearing for some of the mine owners referred to para 22 of the statement filed by the workers. In one of their statements the workmen (Nellore District Mining Labour Union), demand that they should get 15 days leave with pay if he works 75 per cent. of the working days which should be 60 per cent. of the total days in the year. The other statement of the workmen dated 26th February 1951 says that the mica employees' leave should be on the same lines as that of the coalmine workers of Bihar and Bengal. Shri Subramanian appearing on behalf of some of the mine owners pointed out that there are two

kinds of employees monthly and dally. The monthly paid employees are getting 15 days leave in the year with full pay. The daily wage-earners have no leave with pay. There is a mention of 15 days leave with full pay in the agreement (Ex. 3-1) but he points out that mine owners did not really agree to this. The mine owners in their statement dated 9th September 1951 say that they agree that leave with pay for 15 days should be allowed in a year as demanded. My award will be in those terms. That is to say that the workers will get 15 days leave with pay in a year if they work as mentioned in the Nellore District Mining Labour Union's statement.

V. MEDICAL FACILITIES

ITEM No. 12

What provisions should be made for the medical facilities for the workmen.

26. The demand by the Nellore Mining Labour Union is that for every 200 employees in one or group of mines within a radius of one mile a medical unit should be organised and a qualified and efficient doctor should be maintained by an employer. A post of Maternity and Child Welfare Officer is also essential. The statement by the Gudur Andhra Rashtriya Mazdoor Panchayat says that where there are more than 100 employees the mine owner should be directed to keep a dispensary and a special staff for bringing under control malaria. The Mica Welfare Fund may be requested to make available two more vans so that medical facilities may be made accessible to all the mines in the district. The management suggests that the mining area may be divided into three zones (1) Sydapuram (2) Turimela and (3) Podalakur, and a dispensary may be located in each of the areas. The scheme may be financed by the Welfare Fund. The management have given instances of the activities of the Welfare Fund and point out that it is not possible to individual mine owner to undertake this work. It really comes within the purview of the activities of the Welfare Fund. I seem to agree with the suggestions made by the mine owners. It is not a matter to be tackled by an individual mine owner when there is a Mica Welfare Fund Organisation. These activities come directly within the purview of the Welfare Fund. I think I would leave this matter to the Welfare Fund with a suggestion that creches should also be made available at convenient distances. I leave this matter of medical facilities with the above observations.

ITEM No. 15

Are the arrangements for water supply adequate and if not, what should be done to improve it.

27. I have no hesitation in saying that the complaint about inadequacy of drinking water is a genuine one and steps should be taken to provide drinking water to the workers as soon as possible. I was glad to learn from Shri B. Ramachandra Reddi that a scheme is being matured but he says men and materials are difficult to find. A similar complaint was made before this Tribunal in Reference 2 of 1948 where in that award at para 38 this Tribunal ordered that the owners should supply each worker at the mines every day a minimum of 4 gallons of pure drinking water. I would pass orders accordingly till the scheme referred to by Shri B. Ramachandra Reddi matures.

ITEM No. 16

What is the state of the housing problem, and to what extent should the employers be required to improve housing facilities.

28. The case of the Union is that the housing conditions are bad and the workmen live in small huts in unhygienic condition. The Government of India have a scheme by which an employer should within two years build houses if they employ certain number of employees and the time granted is two years and the construction should be expedited. Until constructions are completed the workmen who are living in neighbouring villages in rented huts or houses should be allowed rent at the rate of Rs. 4 per month per workman. Evidently the figure was taken from the Bihar Mica Award in Reference No. 2 of 48 of this Tribunal. Shri Ramachandra Reddi for the owners pointed out that the mine owners supply materials to the workers and the labourers are asked to make their own huts. The permanent employees get better sheds. A five year programme has been agreed upon and 25 per cent. has been promised to be paid from the welfare Fund. He also argues that if there are no houses what is the use of making any demand for rent. The observations of Shri P. C. Reddy are quite opposite that if there are no houses where the mines are located there are houses in the neighbouring villages from where the labourers come. Till the housing scheme matures I think that workers who are not provided with houses should be paid a rent of Rs. 2 (two) per month. I am not giving as much as Rs. 4 given in the Bihar Award on

account of different conditions obtaining in Bihar and Madras mica mines. I therefore allow half of what the Bihar award had granted to the workmen. So far as the bad condition of huts are concerned all that I can say is I leave it to the good sense of the owners who I am sure would not be unwilling to improve matters if defects are pointed out.

ITEM No. 17

Should any recommendation be made for the increase of Welfare cess for the benefit of the workmen

29. I have heard the parties on this point. This is a matter that should be left to the discretion of the Government of India as it was done in the case of Mica Award of Bihar. This has been dealt with in para 41 of the Bihar award. (Ref. 2 of 48 of this Tribunal).

RATIONS

ITEM No. 13

Should the workmen be allowed free rations and rations at concessional rates

30. From the statement of the workers dated 26th February 1951 they claim that each workman should be supplied 6 chattaks of rice free. A mine employing more than 50 workmen should be directed to run a relief shop. The Welfare Fund may be advised to run provision stores at Thalapur, Kalchedu, Vutukur, Sydapuram and Podalakur. In another statement of the workmen dated 1st March 1951 they claim that the distribution of rations should be at concessional rates that is it should be supplied to the workmen at 12½ per cent. less than the market price as the workers generally remain in forest areas. This matter came up for consideration before this Tribunal in Ref. 2 of 1948 (Bihar Mica Award). This matter has been dealt with in para 40 of that award. In that case concession rates were disallowed but free rice of 6 chattaks to the workers was allowed. It was ordered that they should be given 6 chattaks of free rice or in lieu thereof a payment of Rs. 3 should be made. I agree with the adjudicator and award accordingly in this case also.

Before I close I may add that the representatives of the parties as well as Shri V. Balasundaram, Regional Labour Commissioner (Central), Madras, were of great assistance to me in coming to the above conclusions on the various points mentioned in this award.

Now, therefore, this Tribunal gives its award in terms aforesaid, this the Thirtieth day of MAY 1952.

(sd.) S. P. VARMA, Chairman,

Central Government's Industrial Tribunal Dhanbad.

Dhanbad, dated the 30th May 1952.

"ANNEXURE A OF THE TRIBUNAL"

APPENDIX "A"

DRAFT STANDING ORDERS FOR THE COAL MINING INDUSTRY

1. These orders shall come into force on and from
2. In these orders unless there is anything repugnant in the subject or context:—
 - (a) "Employees" means all work people male or female employed above ground or underground either directly by the Company or under a Contractor or Contractors except those who come within the category of Officers of the Company or those whose average pay exceeds Rs. 200 per month.
 - (b) The "Company" means—
 - (c) The "Contractor" means Contractor appointed by the Company but does not include Commission Contractor.
 - (d) The masculine includes the feminines.
 - (e) Employees shall be classed as (1) Permanent, (2) Probationers, (3) Badlis or Substitutes, (4) Temporary, (5) Apprentices.

- (f) A "Permanent" employee is one who is appointed for an unlimited period or who has put in 12 months' continuous service.
 - (g) A "Probationer" is one who is provisionally employed to fill a permanent vacancy and has not completed 6 months' service in that post. If a permanent employee is employed as a probationer in a new post he may, at any time during the probationary period not exceeding 6 months be reverted to his substantive post.
 - (h) A "Badli" or "Substitute" is one who is appointed in the post of a permanent employee or probationer who is temporarily absent.
 - (i) A "Temporary" employee is one who is engaged for work which is of an essentially temporary character.
 - (j) An "Apprentice" is a learner who is paid an allowance during the period of his training either from the date he is taken on or on expiry of any probationary period.
3. (a) Notification to employees regarding period and hours of work shall be posted at the office of the Mine in accordance with Chapter VI of Indian Mines Act.
- (b) Notice specifying holidays, pay days and wage rates payable to all classes of workers shall be posted at the office of the Mines.
- (c) Payment of wages to a Contractor's employee shall be witnessed by an Official of the Company deputed for the purpose in writing. Dearness allowance shall be paid to every individual employee of a contractor and not to the contractor.
- (d) Any wages due to the employee but not paid on the usual pay day on account of their being unclaimed shall be paid by the company or the contractor as the case may be on such unclaimed wage pay day in each week as may be notified to the employees and following the day on which a substantiated claim was presented by the employee or on his behalf by his legal representatives provided that such claim is submitted within 12 months from the date on which the wages become due to the employee.
- (e) All weekly and daily paid workers should receive $1\frac{1}{2}$ times their daily wage for Sunday work.
- Note.—Daily wage includes basic plus approved percentage increase but excludes cash concession and free rice, which will continue on the same scale as 'week days'.
4. Shift working notices shall be posted at the Office of the Mine in accordance with Chapter VI of Indian Mines Act.
5. All employees shall be at work on the colliery at the times fixed and notified to them. An employee attending late shall be liable to be treated as absent and have his wages deducted for the period of lateness. Habitual late attendance shall be treated as misconduct.
6. Any direct employee of the Company other than a miner or loader who desires to obtain leave of absence shall apply in writing to the head of his department or the Manager of the Colliery. If the employee remains absent beyond the period of leave originally granted or subsequently extended he shall lose his lien on his appointment unless—

- (1) he returns within 8 days of the expiry of the leave, and
- (2) gives an explanation to the satisfaction of the Manager of his inability to return before the expiry of leave. In case the employee loses his lien on the appointment he shall be entitled to be kept on the "Badli" list.

If leave is refused or postponed the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a Leave Register to be maintained for this purpose and if the employee so desires, a copy of such entry in the Register shall be supplied to him.

7. (a) Continuous service for a period of 12 months on the colliery will qualify a monthly paid employee for a period of 12 consecutive days' and a weekly paid employee, miner or loader or other piece worker for 7 consecutive days' leave, on full average pay or wages as the case may be.

Explanation.—A monthly paid employee shall be deemed to have completed a period of 12 months continuous service notwithstanding any interruption in service during those 12 months brought about by sickness, accident, or authorised leave and exceeding 90 days in the aggregate for all three, or by a lock-out, or by a strike

which is not an illegal strike, or any intermittent periods of involuntary unemployment not exceeding 30 days in the aggregate;

A weekly paid employee or surface piece worker shall be deemed to have completed 12 months continuous service if he has during the said 12 months put in not less than 265 attendances:

A miner or loader or underground piece worker shall be deemed to have completed 12 months continuous service if he has during the said 12 months put in not less than 190 attendances.

Provided nevertheless no employee or worker shall be entitled to leave with pay if he has during the qualifying period of 12 months taken part in an illegal strike.

(b) Such leave shall be granted during the 12 months following the qualifying period of 12 months' continuous service, and the time at which such leave shall be granted shall be at the discretion of the Company.

(c) For the purpose of computing qualifying attendance for leave with pay as above provided, this Order shall be deemed to have come into operation with effect from 1st September 1946.

(d) Leave pay for a miner, loader or other piece worker shall be computed on the basis of the daily average earning of all the workers of the same category during the month of August prior to his leave. For the purpose of such computation the cash value of any free issue of food and any cash compensation drawn by the workers during the said month shall be similarly averaged and shall be taken into account.

(e) Leave pay for a weekly paid worker shall be computed on the basis of his average daily earning during the week preceding his leave. The cash value of any free issue of food and any cash compensation drawn by the worker shall be taken into account.

(f) Six days' pay computed as above shall be payable to the worker of which 50 per cent. shall be paid to him before he proceeds on leave.

8. The Company may at any time or times in the event of underground trouble, fire, catastrophe, breakdown of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond the control of the Company stop any section or sections of the Colliery, wholly or partially for any period or periods without notice and without compensation in lieu of notice.

In the event of such stoppage during working hours the employees affected shall be notified by notices put up on the notice board in the departments concerned or at the office of the Manager as soon as practicable.

Compulsory leave with pay shall be given to the extent of any privilege leave due to the employee. If no privilege leave is due the compulsory leave will be without pay but the period will count as qualifying service in so far as Provident Fund membership or gratuity is concerned.

9. For terminating employment whether by the management or the employees notice shall be given in writing both by the Management and employees.

(a) One month's notice for monthly staff.

(b) One week's notice for weekly staff.

The Management may make payment in lieu of notice. When an employee draws wages of a piece-rate his weekly wages shall be computed on the average daily earnings of such employee for the days actually worked during the previous wage period.

No temporary employee whether monthly paid or weekly paid or piece rated or probationer, or substitute shall be entitled to any notice or pay in lieu thereof if his services are terminated.

If any permanent employee leaves service without notice he shall be liable to be used for damages.

10. An employee may be suspended, fined, or dismissed without notice or any compensation in lieu of notice if he is found to be guilty of misconduct; and the following acts of commission shall be treated as misconduct.

(a) Wilful, fraud, or dishonesty in connection with the Company's business or property.

(b) Theft, fraud, or dishonesty in connection with the Company's business or property.

- (c) Damage to employer's goods or property.
- (d) Taking or giving bribes or any illegal gratification whatsoever.
- (e) Absence without leave.
- (f) Habitual late attendance.
- (g) Breach of Indian Mines Act, Rules or Standing Orders.
- (h) Riotous or disorderly behaviour in the Colliery or any act subversive of discipline.
- (i) Habitual negligence or neglect of work.
- (j) Frequent repetition of any act or omission for which a fine may be imposed.

No order of dismissal shall be made unless the employee concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. The approval of the Owner, Agent or Chief Mining Engineer of the Company is required in every case of dismissal and when circumstances appear to warrant it that officer shall institute separate independent enquiries before dealing with the charges against an employee.

If on enquiry the order is confirmed or modified, the employee shall be deemed to be absent from duty for the period of suspension and shall not be entitled to any remuneration for such period. If, however, the order is rescinded, the employee shall be deemed to be on duty during the full period of suspension and shall be entitled to the same wages as he would have received if he had been suspended.

11. All complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his servant shall be submitted to the Manager of the Colliery with rights of appeal to the Owner, Agent or Chief Mining Engineer.

12. Every permanent employee shall be entitled to a service certificate at the time of leaving service, dismissal or discharge.

13. The decision of the management upon any question arising out of, in connection with or incidental to these orders, shall be final.

14. A copy of these orders in English and also in the principal regional language of the local area in which the colliery is situated shall be posted at the Manager's office and in such other places on the colliery as the Company may decide and shall be kept into legible condition."

ANNEXURE 'B'

SCHEDULE TO THE GOVERNMENT OF INDIA, MINISTRY OF LABOUR ORDER NO. LR-4(124), DATED THE 6TH FEBRUARY, 1951.

1. What is the state of the Mica Industry with special reference to the employers' ability to bear the demands of the workmen without stifling the industry?
2. Is the present scale of wages in the mica mining industry inadequate, and if so, what should be the reasonable wages?
3. What bonus, if any, should be allowed to the workmen?
4. What should be regarded as the basic wage for the purposes of Dearness Allowance?
5. What rate of Dearness Allowance should be allowed to the workmen?
6. The main complaints of labour relate to their wages, and if so to what extent?
7. What holidays should be allowed to the workmen with pay?
8. Are the present hours of work and overtime suitable for the workmen, and if not, how should they be altered?
9. Should the workmen be allowed compensation for forced idleness, and if so, to what extent?
10. What inducement should be given to the workmen for the purpose of ensuring their permanency of service?
11. What should be the fair rules of disciplinary action applicable to the workmen in the Mica Mines?
12. What provision should be made for medical facilities for the workmen?
13. Should the workmen be allowed free rations and rations at concession rates?

14. Should a Provident Fund under the Government of India's scheme be applied to the workmen?

15. Are the arrangements for water supply adequate, and if not, what should be done to improve it?

16. What is the state of the housing problem, and to what extent should the employers be required to improve housing facilities?

17. Should any recommendation be made for the increase of Welfare Cess for the benefit of the Workmen?

18. Dry compressors should not be used by the employers.

19. Wages should be paid once a week and under no circumstances the payment to be delayed for more than 4 weeks.

20. Payment of pension for those workers who have put in a service of not less than 15 years at one and the same mine.

21. 25 per cent. of the net profits to be evenly distributed among the workers every year.

22. Leave with Pay.

[No. LR-4(124).]

N. C. KUPPUSWAMI, Under Secy.

